

**In the Matter of the Accusation
Against:**

**Physician's and Surgeon's
Certificate No. A 45197**

Case No. 800-2015-017089

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

IT IS SO ORDERED: July 14, 2017.

James Wright

Jamie Wright, J.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 8002015017089

14 **ARFA BABAKNIA, M.D.**
15 **11420 Warner Avenue**
Fountain Valley, CA 92708

OAH No. 2016120588

16 **Physician's and Surgeon's Certificate No. A**
17 **45197**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,
26 Deputy Attorney General.

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1 2. Respondent Arfa Babaknia, M.D. (Respondent) is represented in this proceeding by
2 attorney Richard Ryan, Esq., whose address is: 500 North Brand Boulevard, Suite 2250
3 Glendale, California 91203.

4 3. On or about August 15, 1988, the Board issued Physician's and Surgeon's Certificate
5 No. A 45197 to Arfa Babaknia, M.D. (Respondent). The Physician's and Surgeon's Certificate
6 was in full force and effect at all times relevant to the charges brought in Accusation No.
7 8002015017089, and will expire on February 28, 2018, unless renewed.

8 **JURISDICTION**

9 4. On or about October 11, 2016, Accusation No. 8002015017089 was filed before the
10 Board, and is currently pending against Respondent. On or about October 11, 2016, the
11 Accusation and all other statutorily required documents were properly served on Respondent at
12 his address of record with the Board. Respondent timely filed his Notice of Defense contesting
13 the Accusation.

14 5. A copy of Accusation No. 8002015017089 is attached as exhibit A and incorporated
15 herein by reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and fully understands the
18 charges and allegations in Accusation No. 8002015017089. Respondent has also carefully read,
19 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
20 Disciplinary Order.

21 7. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
23 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
24 to the issuance of subpoenas to compel the attendance of witnesses and the production of
25 documents; the right to reconsideration and court review of an adverse decision; and all other
26 rights accorded by the California Administrative Procedure Act and other applicable laws.

27 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
28 every right set forth above.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 8002015017089.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 **CONTINGENCY**

8 11. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and fully agrees that he may not withdraw his agreement or
13 seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board
14 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 **ADDITIONAL PROVISIONS**

19 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
20 be an integrated writing representing the complete, final, and exclusive embodiment of the
21 agreements of the parties in the above-entitled matter.

22 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
23 including copies of the signatures of the parties, may be used in lieu of original documents and
24 signatures and, further, that such copies and signatures shall have the same force and effect as
25 originals.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 45197 issued to Respondent Arfa Babaknia, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for nine (9) years on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

7 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
8 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
9 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
10 Respondent shall participate in and successfully complete that program. Respondent shall
11 provide any information and documents that the program may deem pertinent. Respondent shall
12 successfully complete the classroom component of the program not later than six (6) months after
13 Respondent's initial enrollment, and the longitudinal component of the program not later than the
14 time specified by the program, but no later than one (1) year after attending the classroom
15 component. The professionalism program shall be at Respondent's expense and shall be in
16 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

17 A professionalism program taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
19 or its designee, be accepted towards the fulfillment of this condition if the program would have
20 been approved by the Board or its designee had the program been taken after the effective date of
21 this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the program or not later
24 than 15 calendar days after the effective date of the Decision, whichever is later.

25 4. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
26 effective date of this Decision, Respondent shall enroll in a professional boundaries program
27 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall
28 undergo and complete the program's assessment of Respondent's competency, mental health

1 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive
2 education and training in the area of boundaries, which takes into account data obtained from the
3 assessment and from the Decision(s), Accusation(s) and any other information that the Board or
4 its designee deems relevant. The program shall evaluate Respondent at the end of the training
5 and the program shall provide any data from the assessment and training as well as the results of
6 the evaluation to the Board or its designee.

7 Failure to complete the entire program not later than six (6) months after Respondent's
8 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
9 in writing to a later time for completion. Based on Respondent's performance in and evaluations
10 from the assessment, education, and training, the program shall advise the Board or its designee
11 of its recommendation(s) for additional education, training, psychotherapy and other measures
12 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
13 program recommendations. At the completion of the program, Respondent shall submit to a final
14 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
15 The professional boundaries program shall be at Respondent's expense and shall be in addition to
16 the Continuing Medical Education (CME) requirements for renewal of licensure.

17 The program has the authority to determine whether or not Respondent successfully
18 completed the program.

19 A professional boundaries course taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the course would have
22 been approved by the Board or its designee had the course been taken after the effective date of
23 this Decision.

24 5. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
25 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
26 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
27 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
28 consider any information provided by the Board or designee and any other information the

1 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
2 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
3 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
4 psychiatric evaluations and psychological testing.

5 Respondent shall comply with all restrictions or conditions recommended by the evaluating
6 psychiatrist within 15 calendar days after being notified by the Board or its designee.

7 6. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
8 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
9 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
10 licenses are valid and in good standing, and who are preferably American Board of Medical
11 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
12 relationship with Respondent, or other relationship that could reasonably be expected to
13 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
14 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
15 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

16 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
17 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
18 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
19 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
20 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
21 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
22 signed statement for approval by the Board or its designee.

23 Within 60 calendar days of the effective date of this Decision, and continuing throughout
24 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
25 make all records available for immediate inspection and copying on the premises by the monitor
26 at all times during business hours and shall retain the records for the entire term of probation.

27 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
28 date of this Decision, Respondent shall receive a notification from the Board or its designee to

1 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
2 shall cease the practice of medicine until a monitor is approved to provide monitoring
3 responsibility.

4 The monitor(s) shall submit a quarterly written report to the Board or its designee which
5 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
6 are within the standards of practice of medicine, and whether Respondent is practicing medicine
7 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
8 that the monitor submits the quarterly written reports to the Board or its designee within 10
9 calendar days after the end of the preceding quarter.

10 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
11 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
12 name and qualifications of a replacement monitor who will be assuming that responsibility within
13 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
14 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
15 notification from the Board or its designee to cease the practice of medicine within three (3)
16 calendar days after being so notified. Respondent shall cease the practice of medicine until a
17 replacement monitor is approved and assumes monitoring responsibility.

18 In lieu of a monitor, Respondent may participate in a professional enhancement program
19 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
20 review, semi-annual practice assessment, and semi-annual review of professional growth and
21 education. Respondent shall participate in the professional enhancement program at Respondent's
22 expense during the term of probation.

23 7. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third
24 party chaperone present while consulting, examining or treating female patients. Respondent
25 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its
26 designee for prior approval name(s) of persons who will act as the third party chaperone.

27 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of
28 the effective date of this Decision, Respondent shall receive a notification from the Board or its

1 designee to cease the practice of medicine within three (3) calendar days after being so notified.
2 Respondent shall cease the practice of medicine until a chaperone is approved to provide
3 monitoring responsibility.

4 Each third party chaperone shall sign (in ink or electronically) and date each patient
5 medical record at the time the chaperone's services are provided. Each third party chaperone
6 shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party
7 chaperone.

8 Respondent shall maintain a log of all patients seen for whom a third party chaperone is
9 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical
10 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
11 in chronological order, shall make the log available for immediate inspection and copying on the
12 premises at all times during business hours by the Board or its designee, and shall retain the log
13 for the entire term of probation.

14 Respondent is prohibited from terminating employment of a Board-approved third party
15 chaperone solely because that person provided information as required to the Board or its
16 designee.

17 If the third party chaperone resigns or is no longer available, Respondent shall, within five
18 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for
19 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent
20 fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or
21 unavailability of the chaperone, Respondent shall receive a notification from the Board or its
22 designee to cease the practice of medicine within three (3) calendar days after being so notified.
23 Respondent shall cease the practice of medicine until a replacement chaperone is approved and
24 assumes monitoring responsibility.

25 Respondent shall provide written notification to Respondent's patients that a third party
26 chaperone shall be present during all consultations, examination, or treatment with female
27 patients. Respondent shall maintain in the patient's file a copy of the written notification, shall
28 make the notification available for immediate inspection and copying on the premises at all times

1 during business hours by the Board or its designee, and shall retain the notification for the entire
2 term of probation.

3 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
4 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
5 Chief Executive Officer at every hospital where privileges or membership are extended to
6 Respondent, at any other facility where Respondent engages in the practice of medicine,
7 including all physician and locum tenens registries or other similar agencies, and to the Chief
8 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
9 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
10 calendar days.

11 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

12 9. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
13 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
14 advanced practice nurses.

15 10. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
16 governing the practice of medicine in California and remain in full compliance with any court
17 ordered criminal probation, payments, and other orders.

18 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
19 under penalty of perjury on forms provided by the Board, stating whether there has been
20 compliance with all the conditions of probation.

21 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
22 of the preceding quarter.

23 12. GENERAL PROBATION REQUIREMENTS.

24 Compliance with Probation Unit

25 Respondent shall comply with the Board's probation unit.

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of Respondent's business and
28 residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training

1 program which has been approved by the Board or its designee shall not be considered non-
2 practice and does not relieve Respondent from complying with all the terms and conditions of
3 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
4 on probation with the medical licensing authority of that state or jurisdiction shall not be
5 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
6 period of non-practice.

7 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
8 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
9 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
10 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
11 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

12 Respondent's period of non-practice while on probation shall not exceed two (2) years.

13 Periods of non-practice will not apply to the reduction of the probationary term.

14 Periods of non-practice for a Respondent residing outside of California will relieve
15 Respondent of the responsibility to comply with the probationary terms and conditions with the
16 exception of this condition and the following terms and conditions of probation: Obey All Laws;
17 General Probation Requirements; and Quarterly Declarations.

18 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
20 completion of probation. Upon successful completion of probation, Respondent's certificate shall
21 be fully restored.

22 16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
23 of probation is a violation of probation. If Respondent violates probation in any respect, the
24 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
25 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
26 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
27 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
28 the matter is final.

1 17. LICENSE SURRENDER. Following the effective date of this Decision, if
2 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
3 the terms and conditions of probation, Respondent may request to surrender his or her license.
4 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
5 determining whether or not to grant the request, or to take any other action deemed appropriate
6 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
7 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
8 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
9 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
10 application shall be treated as a petition for reinstatement of a revoked certificate.

11 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
12 with probation monitoring each and every year of probation, as designated by the Board, which
13 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
14 California and delivered to the Board or its designee no later than January 31 of each calendar
15 year.

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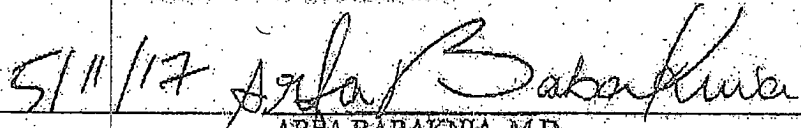
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Richard Ryan, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5/11/17


ARFA BABAKNIA, M.D.
Respondent

I have read and fully discussed with Respondent Arfa Babaknia, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/11/17


RICHARD RYAN, ESQ.
*Attorney for Respondent*ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Richard Ryan, Esq. I fully understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: _____

9 ARFA BABAKNIA, M.D.
10 *Respondent*

11 I have read and fully discussed with Respondent Arfa Babaknia, M.D. the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14 DATED: _____

15 RICHARD RYAN, ESQ.
16 *Attorney for Respondent*

17
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Medical Board of California.

21 Dated: May 11, 2017

Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 MATTHEW M. DAVIS
25 Supervising Deputy Attorney General

26 

27 JASON J. AHN
28 Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 8002015017089

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 8002015017089

ARFA BABAKNIA, M.D.
11420 Warner Avenue
Fountain Valley, CA 92708

ACCUSATION

Physician's and Surgeon's Certificate
No. A45197,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about August 15, 1988, the Medical Board issued Physician's and Surgeon's Certificate Number A45197 to Arfa Babaknia, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 726 of the Code states:

“(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

“(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.”

6. Section 2234 of the Code states, in pertinent part:

“The Board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter 5, the Medical Practice Act].

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent

1 acts.

2 “(1) An initial negligent diagnosis followed by an act or omission medically
3 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

4 “(2) When the standard of care requires a change in the diagnosis, act, or omission
5 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
6 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs
7 from the applicable standard of care, each departure constitutes a separate and distinct
8 breach of the standard of care. “. . .”

9 7. Section 2266 of the Code states that the “failure of a physician and surgeon to
10 maintain adequate and accurate records relating to the provision of services to their patients
11 constitutes unprofessional conduct.”

12 8. Unprofessional conduct under section 2234 of the Code is conduct which breaches
13 the rules or ethical code of the medical profession, or conduct which is unbecoming to a member
14 in good standing of the medical profession, and which demonstrates an unfitness to practice
15 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Sexual Misconduct/Unprofessional Conduct)

18 9. Respondent has subjected his Physician’s and Surgeon’s Certificate Number A45197
19 to disciplinary action under section 726 of the Code, in that Respondent engaged in sexual abuse
20 and/or misconduct with patient N.Z.¹, as more particularly alleged hereinafter:

21 (a) On or about July 13, 2015, patient N.Z. presented to M.C. Medical Foundation for
22 treatment of a urinary tract infection (UTI).

23 (b) Respondent treated patient N.Z. in a closed examination room with no one else
24 present. Respondent inserted one [ungloved] finger inside patient N.Z.’s vagina for a few
25 seconds. During this incident, Respondent repeatedly asked patient N.Z. whether “it hurt when
26 she [patient N.Z.] lost her virginity.” Patient N.Z.’s medical records for the above visit do not

27 _____
28 ¹ Patient name is abbreviated to protect privacy.

1 reflect the genitalia examination conducted by Respondent.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Gross Negligence)**

4 10. Respondent has subjected his Physician's and Surgeon's Certificate Number A45197
5 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b),
6 of the Code, in that he committed gross negligence in his care and treatment of patient N.Z., as
7 more particularly alleged hereinafter:

8 11. Respondent committed gross negligence in his care and treatment of patient N.Z.
9 which included, but was not limited to, the following:

10 (a) Paragraph 9, above, is hereby incorporated by reference and realleged as if fully
11 set forth herein.

12 (b) Respondent performed a genitalia examination of patient N.Z., without a
13 medical indication or benefit to patient N.Z.

14 (c) Respondent performed a genitalia examination of patient N.Z., without using
15 gloves.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Repeated Negligent Acts)**

18 12. Respondent has further subjected his Physician's and Surgeon's Certificate Number
19 A45197 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
20 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
21 treatment of patient N.Z., as more particularly alleged herein after:

22 (a) Paragraphs 9 through 11 above, are hereby incorporated by reference and
23 realleged as if fully set forth herein.

24 (b) Respondent committed repeated negligent acts in his care and treatment of
25 patient N.Z. which included, but was not limited to, the following:

26 (c) Respondent performed a genitalia examination of patient N.Z., without a
27 medical indication or benefit to patient N.Z.

28 ///

1 (d) Respondent performed a genitalia examination of patient N.Z., without using
2 gloves.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Adequate and Accurate Records)**

5 13. Respondent has further subjected his Physician's and Surgeon's Certificate Number
6 A45197 to disciplinary action under section 2227 and 2234, as defined by section 2266, of the
7 Code, in that he failed to maintain adequate and accurate records relating to his care and treatment
8 of patient N.Z., as more particularly alleged hereinafter:

9 14. Paragraph 9 (b) above, is hereby incorporated by reference and realleged as if fully
10 set forth herein.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
14 A45197 to disciplinary action under sections 2227 and 2234, as defined by section 2234 of the
15 Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical
16 profession, or conduct which is unbecoming to a member in good standing of the medical
17 profession and which demonstrates an unfitness to practice medicine, as more particularly alleged
18 hereinafter:

19 (a) Paragraphs 9 through 14, above, are hereby incorporated by reference and
20 realleged as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A45197, issued to Arfa Babaknia, M.D.;
2. Revoking, suspending or denying approval of Arfa Babaknia, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Arfa Babaknia, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 11, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant